

News ReleaseNational Labor Relations Board

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Contact:

Office of Public Affairs 202-273-1991 publicinfo@nlrb.gov www.nlrb.gov

NLRB rules outcome of challenged 7-year-old NY election should stand Case is part of backlog being tackled by newly-constituted Board

The National Labor Relations Board has ruled that the results of a 2003 union election at a set of New York group homes for the developmentally disabled should stand, rejecting claims by the employer that a state law had made a fair election impossible. The decision resolves the oldest election case pending at the Board.

Employees at Independence Residences, Inc. voted 68 to 32 to join the Union of Needletrades, Industrial and Textile Employees (now UNITE-HERE!) in a mail ballot. Under the Board's ruling, the union will now be certified as their representative.

After agreeing to a union election in the spring of 2003, the employer – a non-profit company largely supported by public funds -- asked to withdraw from the election. It argued that a new state law forbidding the use of state funds to support specific activities intended to encourage or discourage unionization would unfairly constrain the employer's ability to express its views. (The state law is being challenged in federal court on grounds that it is preempted by federal labor law.) The employer filed objections to the election based on the state law.

The decision, signed August 27 but made public today, was split 3-2, with Chairman Wilma Liebman and Members Mark Pearce and Craig Becker in favor of allowing the results to stand, and Members Peter Schaumber and Brian Hayes saying that the election should have been set aside. In a concurring opinion, Chairman Liebman stated that the case had languished at the Board "for an unconscionably long time." To read the decision in *Independence Residences, Inc.*, 29-RC-10030, click here.

The Board, which reached full five-member strength this summer for the first time since late 2007, has been tackling a backlog that stood at more than 350 cases in mid-summer. The cases included novel and difficult issues that awaited a larger Board, as well as about

100 previously-decided cases that were returned following the June 17 Supreme Court decision in *New Process Steel v. NLRB*. (See background material here).

The National Labor Relations Board is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions.

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